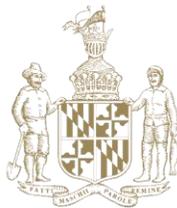


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Judicial Proceedings Committee



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January 31st, 2022
Senate Judicial Proceedings Committee
The Honorable William C. Smith Jr.
2 East Miller Senate Building
Annapolis, MD, 21401

Re: Senate Bill 28 - Child Custody – Legal Decision–Making and Parenting Time

Dear Chairman Smith and members of the Committee,

Under Maryland law, the courts resolve child custody disputes based on a determination of what is in the child’s best interests. The courts determine the best interest by a series of factors from parent fitness and reputation, child preference and health, as well as separation length and opportunity of visitation.

Traditionally, when one parent was granted custody of a minor child, the other parent would generally be awarded visitation rights. In 1984, the Court of Appeals first recognized and applied the concept of “joint custody” in *Taylor v. Taylor*. The ruling explained that, within the meaning of “custody” are the concepts of “legal” and “physical” custody. “Legal custody” is defined as the right and obligation to make long-range decisions involving the education, religious training, discipline, medical care, and other matters of major significance concerning the child’s life and welfare. “Physical custody” means the right and obligation to provide a home for the child and to make the day-to-day decisions required during the time the child is with the parent having such custody.

Senate Bill 28 alters provisions of law relating to child custody and visitation proceedings and establishes numerous factors for courts to consider in cases involving legal decision making and parenting time. “Legal decision making” and “parenting time” are analogous of “legal custody” and “physical custody” respectively. The Bill also establishes that a court may award legal decision making or parenting time to one parent or jointly to the parents. No parent is presumed to have any right to legal decision making or parenting time that is superior to the right of another parent. The bill also specifies that a parent is a biological parent, an adoptive parent, or an individual a court has deemed to be a *de facto* parent.

Furthermore, Senate Bill 28 establishes a new subtitle specifying numerous factors for judicial consideration in cases involving legal decision making and parental responsibility. The purpose of the provisions includes (1) promoting stability and long-term health and welfare for children by specified methods; (2) providing children with physical and emotional security and protection from exposure to conflict and violence; and (3) providing for an expeditious, thoughtful, and consistent process for decision making by courts to protect the best interests of children.

This Bill is a comprehensive addition to child custody decisions which will further ensure the safety and prosperity of young Marylanders with separated parents.

I appreciate the Committee's consideration of Senate Bill 28 and will be happy to answer any follow-up questions the Committee may have.